



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No: 220902-0183]

RTID 0648-XB877

### Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications; 2022-2023 Annual Specifications and Management Measures for Pacific Sardine; Correction

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; correction.

**SUMMARY:** This action contains a correction to the final rule for 2022-2023 harvest specifications and management measures for the northern subpopulation of Pacific sardine (hereafter Pacific sardine), which published on July 1, 2022. Specifically, NMFS is correcting the tonnage amount that would trigger a trip limit for the live bait fishery: 2,500 metric tons (mt).

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Taylor Debevec, West Coast Region, NMFS, (562) 619-2052, [Taylor.Debevec@noaa.gov](mailto:Taylor.Debevec@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS manages the Pacific sardine fishery in the U.S. exclusive economic zone (EEZ) off the Pacific coast (California, Oregon, and Washington) in accordance with the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The FMP and its implementing regulations require NMFS to set annual catch levels for the Pacific sardine fishery based on the annual specification framework

and control rules in the FMP and in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1801 *et seq.*

The final rule to implement the annual catch levels, reference points, and management measures for the July 1, 2022 – June 30, 2023, fishing season for Pacific sardine, published July 1, 2022 (87 FR 39384), contained a transcription error. The final rule inadvertently listed the tonnage limit that would trigger a trip limit for the live bait fishery as 1,800 mt, when it should have been 2,500 mt. The proposed specifications (87 FR 27557, May 9, 2022), the recommendation by the Pacific Fishery Management Council, and the analysis by NMFS during the proposed and final specifications process all referenced 2,500 mt. NMFS did not receive any public comments on the proposed specifications that warranted a change, and, as stated in the final rule, NMFS did not intend any changes between the proposed and final rules: “The final rule adopts, without changes, the catch levels and restrictions that NMFS proposed in the rule published on May 9, 2022.” (87 FR at 39385).

As such, NOAA corrects the management measure for commercial sardine harvest during the 2022-2023 fishing year.

### **Correction**

In FR Rule Doc. No. 14122, appearing on page 39384 in the Federal Register of Friday, July 1, 2022, the following correction is made:

1. On page 39385, in the first column, the second paragraph under table 1, “(1) If landings in the live bait fishery reach 1,800 mt of Pacific sardine, then a 1 mt per-trip limit of sardine would apply to the live bait fishery.” is corrected to read “(1) If landings in the live bait fishery reach 2,500 mt of Pacific sardine, then a 1 mt per-trip limit of sardine would apply to the live bait fishery.”

There are no other corrections to the final rule published July 1, 2022.

### **Classifications**

Section 553(b)(B) of the Administrative Procedure Act (APA) authorizes agencies to dispense with notice and comment procedures for rules when the agency for “good cause” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” The Assistant Administrator for Fisheries determined there is good cause to waive prior notice and an opportunity for public comment on this action as notice and comment would be impracticable and contrary to public interest because this action is simply to correct an inadvertent error in the July 1, 2022, final rule (87 FR 39384). Immediate correction of the error is necessary to prevent confusion among participants in the fishery and to ensure management of the fishery is consistent with both the Council's intent for regulations and the public's expectations based on representations in the proposed and final specifications. Thus, delaying this correction to engage in notice-and-comment rulemaking would be contrary to the public interest.

Under section 553(d) of the APA, an agency must delay the effective date of regulations for 30 days after the date of publication, unless the agency finds good cause to make the regulations effective sooner. For the same reasons stated above, the Assistant Administrator for Fisheries has determined good cause exists to waive the 30-day delay in the date of effectiveness. This rule makes only a minor correction to the final rule, which was effective July 1, 2022. Delaying effectiveness of this correction would result in conflicts in the regulations and confusion among fishery participants and would therefore be contrary to the public interest.

The Regulatory Flexibility Act, 5 U.S.C. 603 and 604, requires an agency to prepare an initial and a final regulatory flexibility analysis whenever an agency is required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking. Because NMFS found good cause under section 553(b)(3)(B) of the APA to forgo publication of a notice of proposed rulemaking, the regulatory

flexibility analyses described in 5 U.S.C. 603 and 604 are not required for this rulemaking.

This final rule is not significant under Executive Order 12866.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: September 2, 2022.

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Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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